



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

W. Tayloe Murphy, Jr.
Secretary of Natural Resources

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Robert G. Burnley
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STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION ORDER BY CONSENT ISSUED TO MOTION CONTROL INDUSTRIES, INC., REGISTRATION NUMBER 32006

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code §1300 *et seq.* and 10.1-1185 between the State Air Pollution Control Board and Motion Control Industries, Inc. for the purpose of resolving certain violations of Condition 14a of Motion Control's permit dated April 30, 2002. This violation was addressed in a Notice of Violation (NOV) dated January 27, 2005.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meanings assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Board" means the State Air Pollution Control Board, a permanent collegial body of the Commonwealth of Virginia described in § 10.1-1301 and § 10.1-1184.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality.
5. "Order" means this document, also known as a Consent Order.

6. "Carlisle" means Motion Control Industries, Inc. also known as Carlisle Motion Control Industries, Inc. certified to do business in Virginia and its affiliates, partners, subsidiaries and parents.
7. "Facility" or "Source" means Motion Control Industries, Inc., located in Mecklenburg County, Virginia.
8. "SCRO" means the South Central Regional Office located in Lynchburg, Virginia.
9. "Regulations" means the State Air Pollution Control Board Regulations for the Control and Abatement of Air Pollution, which have been incorporated into Title 9 of the Virginia Administrative Code (VAC).

SECTION C: Findings of Fact and Conclusions of Law

1. DEQ personnel conducted an onsite inspection at Carlisle's South Hill Plant on May 20, 2004, to verify compliance with the source's permit dated April 30, 2002. Nine deficiencies were noted during the onsite inspection as follows:
 - 1) The differential pressure gauges on the fabric filters were not working properly or were disconnected from the fabric filters. Permit condition number 6 requires that the differential pressure gauges be in proper working order and be in operation when the fabric filters are operating.
 - 2) Records of the production of brake linings were not available as required in permit condition number 8.
 - 3) Records of annual speciated HAP emissions were not available as required in permit condition number 14a.
 - 4) Records of the annual consumption of phenolic resin were not formatted properly to assess compliance as required in permit condition number 14c.
 - 5) Records of the annual consumption of raw materials were not formatted properly to assess compliance as required in permit condition number 14d.
 - 6) An inventory of spare parts was not available as required in permit condition number 21b.
 - 7) Written operating procedures were not available as required in permit condition number 21c.

- 8) Records of training were not available as required in permit condition number 21d.
 - 9) Reasonable precautions were not being taken to control fugitive emissions around the area of the fabric filters as required in 9 VAC 5-50-90.
2. As a result of the deficiencies noted during the inspection, Carlisle was issued a Warning Letter on June 3, 2004. The Warning Letter required an initial written response within 20 days of receipt and a final written response indicating all deficiencies had been corrected by September 3, 2004.
 3. Carlisle submitted the initial Warning Letter response on June 23, 2004. The initial response indicated that the source had corrected the deficiencies outlined in items 2, 4 & 5 and provided the supporting documentation. The initial Warning Letter response indicated that the source would have the remaining deficiencies outlined in items 1, 3, 6, 7 & 8 corrected by July 30, 2004, and item 9 by August 27, 2004. The letter stated that notification of corrective measures would be sent to DEQ upon completion.
 4. An unannounced onsite follow-up inspection was conducted on August 26, 2004, to verify whether Carlisle had corrected the deficiencies outlined in items 1 and 9. The source had corrected the deficiency outlined in item 9 relating to controlling fugitive dust around the fabric filters. The source had not corrected the deficiency outlined in item 1 relating to the improperly working differential pressure gauges on the fabric filters. The source indicated that the differential pressure gauges would be working by the Warning Letter deadline of September 3, 2004. In addition, the source indicated that they would be submitting the remaining records outlined in items 3, 6, 7 & 8 by September 3, 2004.
 5. On August 27, 2004, Carlisle sent an email to DEQ indicating that all of the differential pressure gauges on the fabric filters were working properly.
 6. On October 13, 2004, DEQ called Carlisle to inquire about the remaining records outlined in items 3, 6, 7 & 8 which had not been received by the deadline of September 3, 2004. A representative of Carlisle stated that they had not sent the records to DEQ because they were waiting on DEQ to conduct another onsite inspection and pick up the records. DEQ personnel explained that the Warning Letter clearly stated that the deadline for submittal of records to DEQ was September 3, 2004. In addition, Carlisle's initial response to the Warning Letter dated June 23, 2004, stated that notification of corrective measures would be sent to DEQ upon completion.

7. Carlisle submitted the remaining records for the deficiencies outlined in items 3, 6, 7 & 8 on October 13, 2004. Review of the submitted records indicated that the recordkeeping deficiencies outlined in the Warning Letter had been corrected for all items except item 3, the records of annual speciated HAP emissions.
8. On October 20, 2004, another unannounced onsite follow-up inspection was conducted to verify whether Carlisle had corrected the deficiency outlined in item 1 and fixed the differential pressure gauges on the fabric filters. The differential pressure gauges appeared to be working properly during this inspection.
9. On November 3, 2004, DEQ sent Carlisle an email requesting that the records outlined in item 3, the records of the annual speciated HAP emissions, be resubmitted so that they fully comply with the permit recordkeeping requirements. The source contact, Tom Schultz, responded to the email indicating that he would no longer be employed with Carlisle as of November 5, 2004. Mr. Schultz indicated that he would be forwarding the request to two other Carlisle representatives, Glen McDaniels and Norm Tarbell.
10. On November 23, 2004, DEQ contacted Glen McDaniels and asked for the status of the records of speciated HAPs. Mr. McDaniels indicated that he would speak with Norm Tarbell on the status of the records.
11. On December 6, 2004, DEQ received a call from John Dunderdale of Carlisle. Mr. Dunderdale indicated that Norm Tarbell was no longer employed by Carlisle and that he was stepping in to fulfill the records request. DEQ explained to Mr. Dunderdale the scope of the records request and stressed that the Warning Letter response deadline had passed.
12. DEQ spoke with Mr. Dunderdale again about the records of speciated HAP emissions on December 20, 2004, and January 10, 2005. During the January 10, 2005, conversation, Mr. Dunderdale indicated that he would send DEQ a list of raw materials. DEQ indicated to Mr. Dunderdale that a raw materials list would not contain enough information to determine speciated HAP emissions.
13. On January 13, 2005, Mr. Dunderdale sent two emails to DEQ. The emails contained a spreadsheet that listed the raw materials used at the South Hill Plant.

14. As of January 27, 2005, DEQ had still not received Carlisle's records of speciated HAP emissions. Carlisle was issued a Notice of Violation to address the speciated HAP emission record deficiency on January 27, 2005.
15. Condition 14a of the source's permit dated April 30, 2002 states:

The permittee shall maintain records of emission data and operating parameters as necessary to demonstrate compliance with this permit. The content and format of such records shall be arranged with the South Central Regional Office. These records shall include, but are not limited to:

 - a. Annual speciated HAP emissions from the brake lining manufacturing facility, calculated monthly as the sum of each consecutive twelve month period, to demonstrate compliance with the emission limits in Condition 12. HAP emissions shall be calculated by material balances using methods approved by the South Central Regional Office.
16. On March 1, 2005, DEQ met with Carlisle representatives, Marc Reed, Plant Manager, Glen McDaniels, Maintenance Manager, and Kevin Scott, Consultant, to discuss the scope of the speciated HAP emission record deficiency. Carlisle indicated that they would submit the speciated HAP emission records within 2 weeks of the meeting.
17. Carlisle submitted the speciated HAP emission records by email on April 7, 2005.
18. DEQ reviewed the speciated HAP emission records on April 18, 2005. DEQ responded to Carlisle by email on April 18, 2005, indicating that the records appeared to be correct. DEQ also requested that Carlisle submit the records in hardcopy with a cover letter and a document certification.

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of the authority granted it in Va. Code §10.1-1307 (D), 10.1-1309, 10.1-1184, and 10.1-1316 (C), orders Motion Control Industries, Inc., and Motion Control Industries, Inc., agrees that:

1. Motion Control Industries, Inc. shall pay a civil charge of \$2,385.00 for the violations described in Section C of this order.

2. Motion Control Industries, Inc. shall make a payment of \$2,385.00 of this civil charge within 30 days of the effective date of the Order in settlement of the violations cited in this Order. Payment shall be made by check payable to the "Treasurer of Virginia," delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 10150
Richmond, Virginia 23240

3. Motion Control Industries, Inc. shall include its Federal Identification Number with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order.
4. Unless Motion Control Industries, Inc. has already complied, Motion Control Industries, Inc. shall submit records of speciated HAP emissions in accordance with condition 14a of Motion Control's permit dated April 30, 2002, within 30 days of the date that Motion Control Industries, Inc. signs this Order.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this agreement with the consent of Motion Control Industries, Inc., for good cause shown by Motion Control Industries, Inc., or on its own motion after notice and an opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein, including those matters addressed in the Notice of Violation issued to Carlisle Motion Control Industries, Inc., by DEQ on January 27, 2005. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.

3. For purposes of this Order and subsequent actions with respect to this Order, Motion Control Industries, Inc., admits the jurisdictional allegations, factual findings and conclusions of law contained herein.
4. Motion Control Industries, Inc., consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this order.
5. Motion Control Industries, Inc., declares it has received fair and due process under the Administrative Process Act, Va. Code § 2.2 4000 *et seq.*, and the State Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by Motion Control Industries, Inc., to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Motion Control Industries, Inc. shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Motion Control Industries, Inc. shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Motion Control Industries, Inc. shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and

- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim of inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Motion Control Industries, Inc. Notwithstanding the foregoing, Motion Control Industries, Inc. agrees to be bound by any compliance date which precedes the effective date of the Order.
11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Motion Control Industries, Inc. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Motion Control Industries, Inc. from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.
12. By its signature below, Motion Control Industries, Inc. voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of May 16, 2005.

Robert G. Burnley
Robert G. Burnley, Director
Department of Environmental Quality

Motion Control Industries, Inc. voluntarily agrees to the issuance of this Order.

By: * Miss A. Reed

Date: 5-6-05

Commonwealth of Virginia City/County of Mecklenburg

The foregoing instrument was acknowledged before me this 6th day of
May, 2005 by Marc A Reed,
(name)
who is Plant Manager of Motion Control
(title)
Industries, Inc. on behalf of the Corporation.

Connie Richardson Clark
Notary Public

My commission expires April 30, 2008.